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13 Counterclaim Plaintiff Radiancy, Inc.

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17
18 TRIA BEAUTY, INC.,
Plaintiff,

19 vs.

20 RADIANCY, INC.,
21 Defendant.

22 RADIANCY, INC.,
23 Counterclaim Plaintiff,

24 vs.

25 TRIA BEAUTY, INC.,
Counterclaim Defendant,

26 and

27 KIMBERLY KARDASHIAN,
28 Counterclaim Defendant.

CASE NO. CV-10-5030 (RS) (NJV)

**DECLARATION OF BRENDAN J.
O'ROURKE IN SUPPORT OF
RADIANCY, INC.'S MOTION FOR
RELIEF FROM CASE MANAGEMENT
SCHEDULING ORDER**

Honorable Judge Richard Seeborg

1 I, Brendan J. O'Rourke, declare as follows:

2 1. I submit this declaration in support of Radiancy's Motion for Relief
3 from the Case Management Scheduling Order in this matter.

4 2. I am an attorney licensed to practice law in the State of New York and
5 am admitted *pro hac vice* in the above-captioned matter. I am a member of
6 Proskauer Rose, LLP, attorneys for Defendant-Counterclaimant Radiancy, Inc.
7 ("Radiancy"). The facts set forth herein are of my own personal knowledge and, if
8 called to testify under oath, I could and would testify competently thereto.

9 3. Attached as Exhibit 1 is a true and correct copy of an email chain
10 from counsel for TRIA Beauty, Inc. ("TRIA") to counsel for Radiancy, with the
11 latest email in the chain dated January 4, 2012.

12 4. Attached as Exhibit 2 is a true and correct copy of an email from
13 counsel for Radiancy to counsel for TRIA, dated December 22, 2011.

14
15 I declare under penalty of perjury under the laws of the United States of
16 America that the foregoing is true and correct.

17 Executed on March 9, 2012 at New York, New York.

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19 /s/ Brendan J. O'Rourke
20 Brendan J. O'Rourke
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